

REMARKS

In the present Amendment, Claims 29 and 35 have been amended to recite that the medical device is an embolic protection filter. New Claims 59 and 60 have been added. Claims 59 and 60 are the combination of Claims 29 and 35 prior to the amendment, respectively, with the subject matter of Claim 32. No new matter has been added, and entry of the Amendment is respectfully requested.

Upon entry of the Amendment, Claims 29-60 will be pending, of which Claims 43-58 are withdrawn from consideration.

At page 3 of the Action, Claims 29-30, 32-33 and 35-38 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Dwyer et al (US 6,395,017).

At page 5 of the Action, Claims 31, 34, and 39-42 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Dwyer et al.

Applicants submit that the above two rejections should be withdrawn because Dwyer et al does not disclose or render obvious the present invention.

As noted, independent Claims 29 and 35 have been amended to recite that the medical device is an embolic protection filter.

Dwyer et al relates to a delivery device for intraluminally positioning and controllably releasing a vascular prosthesis which includes an elongate delivery sheath and a control handle at the proximal end of the device (abstract).

Dwyer et al does not teach or suggest a medical catheter or a delivery system for the transvascular deployment of *an embolic protection filter*.

Accordingly, the present claims are not anticipated by or obvious over Dwyer et al.

In view of the above, reconsideration and withdrawal of the rejections based on Dwyer et al are respectfully requested.

New Claims 59 and 60 are patentable over Dwyer et al for the following reasons.

Claims 59 and 60 recite that an outer diameter of the catheter tubular body is substantially constant from the proximal portion to the distal portion and that the pod being integrally formed with the catheter tubular body and including a thin-walled distal portion of the catheter tubular body of reduced wall thickness relative to a proximal portion of the catheter tubular body.

In contrast, as shown in Figs. 3-5 of Dwyer et al, the outer diameter of the pod **23** is larger than that of the sheath **22**. That is, Dwyer et al's device does not meet the requirement of "an outer diameter of the catheter tubular body is substantially constant from the proximal portion to the distal portion" of Claims 59 and 60.

Further, in Figs. 10A-10C of Dwyer et al, there is no thin-walled pod with a reduced wall thickness relative to a proximal portion of the catheter tubular body, as required by the present claims.

Allowance is respectfully requested. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

Hui C. Wauters

Hui C. Wauters
Registration No. 57,426

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/80928

80928

CUSTOMER NUMBER

Date: March 16, 2009